

YUMA COUNTY PEST ABATEMENT DISTRICT

Chris Sumner, Manager

Rt. 1, Box 40-M

SOMERTON, AZ 85350

Tel: (928) 726-1030, Fax: (928) 726-1363

Bill Rodgers, Chairman

Don McCain, Member

Dave Crist, Vice Chairman

John Loghry, Secretary

Dan Chavez, Member

Don McCain, Member

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Water Docket

Environmental Protection Agency,

Mail Code 4101T, 1200 Pennsylvania Avenue, NW.

Washington, DC 20460

Attention: Docket ID No. OW-2003-0063.

Yuma County Pest Abatement District (YCPAD) welcomes the opportunity to submit comments regarding the "Interim Statement and Guidance on Application of Pesticides to Waters of the United States in Compliance with FIFRA" memorandum from G. Tracy Mehan, III (signed and dated, July 11, 2003) and Assistant Administrator for Water (4101) Stephen L. Johnson (signed and dated, July 11, 2003) Assistant Administrator for Prevention, Pesticides and Toxic Substances.

YCPAD fully supports the Interim Statement and Guidance document, and urges USEPA to issue a rule codifying its interpretation of Clean Water Act (CWA) provisions as not requiring a National Pollutant Discharge Elimination System (NPDES) permit for application of FIFRA-registered mosquito larvicides and adulticides in accordance with product labels.

YCPAD is a small organization with two employees assigned to mosquito control with the responsibility of managing mosquito populations in an area of the United States with a year round mosquito breeding season, a city of approximately 100,000 within 3 miles of the Colorado River and the recent confirmation of West Nile virus in local mosquitoes. It has also been determined by CDC researchers and others that the mosquito species found in riparian areas of the west is perhaps the most efficient vector of West Nile virus evaluated to date.

It is inefficient and undesirable to control mosquitoes in neighborhoods exclusively by use of Ultra Low Volume (ULV) adulticides, although this is sometimes necessary. The preferred approach is to use FIFRA labeled larvicides at label rates at the breeding site to prevent the emergence of adult mosquitoes and deny them the opportunity to accelerate the amplification of organisms such as the West Nile virus. As a second line of defense, it is sometimes necessary to treat areas adjacent to waters of the United States with ULV adulticides registered by FIFRA for such purposes. This approach permits the treatment of less acreage and the release of less

pesticide than simply treating neighborhoods with ULV adulticides in response to documented human exposure to mosquito activity.

It is the position of YCPAD that the requirement for a NPDES permit prior to use of mosquito larvicides and adulticides in the vicinity of US Waters is a *de-facto* prohibition of the use of these safe and efficient materials, and will render safe and efficient mosquito control operations a relic of the past. The resulting impact on quality of life and human health in the absence of effective tools is like taking the fire truck away from the fireman. We can wring our hands in despair but the family still died.

The products currently registered for mosquito control have been exhaustively evaluated for safety, efficacy and impact on the environment. Regulatory agencies are in place to oversee their use and mandate continued education of all certified personnel. These mosquitocides are purpose-designed, non-residual products to be used in a specified manner and rate for a beneficial intent; control of mosquitoes. Their use is NOT a discharge of waste by any stretch of the imagination.

YCPAD also fully supports two further regulatory changes originally recommended by the American Mosquito Control Association (AMCA) that will eliminate regulatory confusion, promote ruling consistency with the Code of Federal Regulations and obviate unnecessary future litigation. First, the definition of the term "pollutant" set forth at 40C.F.R. § 122.2 should be amended with the addition of a third subsection as follows:

(c) A pesticide product that is registered or otherwise approved under the Federal Insecticide, Fungicide and Rodenticide Act for the purpose of control of mosquito larvae or adults, other vectors (as defined by section 2(oo) of that Act), or other outdoor aquatic pests and is used for such purpose in substantial compliance with all provisions of its approved label and labeling that are relevant to protection of waters of the United States.

Second, the definition of the term "discharge of a pollutant" in 40 CFR 122.2 should be amended by adding the following sentence at the end of the definition:

"This term also does not include the application or use of a pesticide product that is registered or otherwise approved under the Federal Insecticide, Fungicide and Rodenticide Act for the purpose of control in the atmosphere of adult mosquitoes or other vectors (as defined by section 2(oo) of that Act) and is used in substantial compliance with all provisions of its approved label and labeling that are relevant to protection of waters of the United States."

Thank you for the opportunity to comment on the Interim Statement and Guidance Document. We look forward to the Agency performing a rulemaking to further clarify its position regarding this crucial public health issue.

Chris Sumner,
Manage, Yuma County Pest Abatement District